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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/753,278	01/08/2004	Joseph Yaacoub Sahyoun	3607.05P2C		
75	590 02/24/2006	EXAMINER			
Allston L. Jon		SAN MARTIN, EDGARDO			
PETERS, VER	NY, JONES & SCHMI'		<del></del>		
Suite 230		ART UNIT	PAPER NUMBER		
425 Sherman A	venue	2837			
Palo Alto, CA	94306	DATE MAILED: 02/24/2006			

Please find below and/or attached an Office communication concerning this application or proceeding.

11
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		Applicatio	n No.	Applicant(s)					
Office Action Summary			10/753,27	В	SAHYOUN, JOSEPH YAACOUB				
			Examiner		Art Unit				
			Edgardo S	an Martin	2837				
Ti Period for R	he MAILING DATE of this communica eply	ation appe	ears on the	cover sheet with the c	orrespondence ad	dress			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).									
Status									
1)⊠ Re	sponsive to communication(s) filed	on <i>08 Jai</i>	nuary 2004	l.					
•			action is no						
•—	ice this application is in condition for	r allowan	ce except t	or formal matters, pro	secution as to the	e merits is			
clo	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.								
Disposition	of Claims								
4)⊠ Cla	aim(s) <u>1</u> is/are pending in the applica	ation.							
4a)	Of the above claim(s) is/are	withdraw	n from cor	sideration.					
5)☐ Cla	5) Claim(s) is/are allowed.								
6)⊠ Cla	aim(s) <u>1</u> is/are rejected.								
7)☐ Cla	aim(s) is/are objected to.								
8)∏ Cla	aim(s) are subject to restriction	on and/or	election re	quirement.					
Application	Papers								
9)⊠ The	e specification is objected to by the l	Examiner	·.						
10) <u></u> The	e drawing(s) filed on is/are: a	a) 🗌 acce	epted or b)[	$\square$ objected to by the E	xaminer.				
App	plicant may not request that any objection	on to the d	drawing(s) b	e held in abeyance. See	37 CFR 1.85(a).				
Re	placement drawing sheet(s) including th	ne correction	on is require	d if the drawing(s) is obj	ected to. See 37 C	FR 1.121(d).			
11) 🔲 The	e oath or declaration is objected to b	y the Exa	aminer. No	te the attached Office	Action or form P	ГО-152.			
Priority und	er 35 U.S.C. § 119								
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>									
Attachment(s)									
1) Notice of References Cited (PTO-892)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date  1) Interview Summary (PTO-413)  Paper No(s)/Mail Date  5) Notice of Informal Patent Application (PTO-152)  Other:									

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#### **DETAILED ACTION**

## **Double Patenting**

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer <u>cannot</u> overcome a double patenting rejection based upon 35 U.S.C. 101.

- 1. Claim 1 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of copending Application No. 10/778,777 and 10/784,013. This is a <u>provisional</u> double patenting rejection since the conflicting claims have not in fact been patented.
- 2. Claim 1 of this application conflict with claim 1 of Application No. 10/778,777 and 10/784,013. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

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## Specification

- 3. The disclosure is objected to because of the following informalities:
  - The current status of US Patent Application 10/058,868 is missing.
     Appropriate correction is required.

## Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goossens et al. (US 4.567,327) in view of House (US 5,883,967).

Goossens et al. teach a loudspeaker (Figs.1 and 3) comprising a frame (Figs. 1 and 3, Item 6) having an interior bottom surface with a side portion extending upward from, and surrounding the interior bottom surface, the side portion terminating in an exterior edge of a uniform first height above the interior bottom surface with the exterior edge defining an opening into the frame having a first predetermined size and shape, and a selected distance between the interior bottom surface and the exterior edge an inner surface of the side portion defines an interior mounting surface(Figs.1 and 3, Item 33) therearound; a cone (Figs.1 and 3, Item 8) having an outer edge (Figs.1 and 3, Item 10) and an inner edge (Figs.1 and 3, Item 9), the cone having a top surface and a bottom surface with the outer edge being substantially the same shape as, and a

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second size that is smaller than the first size defined by the exterior edge of the frame, with the inner edge defined by centrally located circular hole of a first diameter through the cone; a suspension system (Figs.1 and 3, Item 7) having a suspension portion separated a predetermined distance from each other with the first suspension portion connected between the exterior edge of the frame and the outer edge of the cone; an audio motor (Figs.1 and 3, Item 4) including a magnet assembly, a thin walled bobbin (Figs.1 and 3, Item 2) and a voice coil (Figs.1 and 3, Item 3) wound near a bottom edge of the bobbin with the magnet assembly mounted to the bottom of the frame with a top of the magnet assembly below the interior mounting surface on the side of the frame; and the bobbin (Figs.1 and 3, Item 2) has an outer surface of a second diameter with the inner edge of the cone attached to the outer surface of the bobbin spaced apart from the voice coil (Figs.1 and 3, Item 3), the first diameter and the second being substantially equal one to the other; and a stiff diaphragm (Figs. 1 and 3, Item 1) having an outer edge, a top surface and a bottom surface; the stiff diaphragm having a third size that is substantially the same or smaller than the second size and is substantially the same shape as the opening defined by the exterior edge of the frame; the outer edge of the diaphragm connected to the top surface of the cone; and the bottom surface of the stiff diaphragm having a centrally located connecting ring (Figs.1 and 3, Item 11) of a third diameter that is larger than second diameter of the bobbin with the connecting ring of the diaphragm connected to a top edge of the bobbin (Figs.1 and 3, Item 2) (Col.5, Line 53 – Col.9, Line 40). However, Goossens et al. fail to disclose a dual suspension system having first and second flexible suspension portions separated a

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predetermined distance from each other with the first suspension portion connected between the exterior edge of the frame and the outer edge of the cone, and the second suspension portion connected between the interior mounting surface of the frame and the bottom of the cone spaced apart from the outer edge of the cone.

On the other hand, House teaches a dual suspension system having first (Fig.5, Item 330) and second (Fig.5, Item 331) flexible suspension portions separated a predetermined distance from each other with the first suspension portion (Fig.5, Item 330) connected between the exterior edge of the frame and the outer edge of a diaphragm (Fig.5, Item 312), and the second suspension portion connected between the interior mounting surface of the frame and the bottom of the diaphragm spaced apart from the outer edge of the diaphragm (Figs.5 and 6; Col.5, Line 54 – Col.7, Line 24).

It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to employ the House dual suspension system with the Goossens et al. design because it would provide an increase in the reproduction signal amplitude and would permit the diaphragm to be driven in the same phase over its entire surface, providing a faithfully reproduction in a low frequency range and increasing the allowable input.

### Conclusion

5. The attached hereto PTO Form 892 lists prior art made of record that the Examiner considered it pertinent to applicant's disclosure.

#### Contact Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571) 272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley can be reached on (571) 272-2800 ext.33. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Edgardo San Martín Primary Examiner Art Unit 2837

Class 181

February 21, 2006